

Parties may
examine
witnesses.

506. (1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the court or magistrate directing the commission may think relevant to the issue, and it shall be lawful for the magistrate, court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such magistrate, court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of
commission.

507. (1) After any commission issued under section 503 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court or magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872 (I of 1872), may also be received in evidence at any subsequent stage of the case before another court.

Adjournment
of proceeding.

508. In every case in which a commission is issued under section 503, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Execution of
foreign
commissions.

508A. (1) The provisions of section 505 and so much of section 506 and section 507 as relates to the execution of a commission and its return shall apply in respect of commissions issued by any of the courts, judges or magistrates hereinafter mentioned as they apply to commissions issued under section 503.

(2) The courts, judges and magistrates referred to in sub-section (1) are—

“(a) any such court, judge or magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification in the Official Gazette, specify in this behalf; and

(b) any court, judge or magistrate exercising jurisdiction in any such country or place outside India as the Central Government may, by notification in the Official Gazette, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.”]

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

Deposition
of medical
witness.

509. (1) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Power to
summon
Medical
witness,

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

510. ¹[(1)] Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, ²[or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an officer of the Mint] upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code. Report of
Chemical
Examiner.

³[(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the subject-matter of his report.]

510A. (1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry trial or other proceeding under this Code. Evidence on
affidavits.

(2) The Court may, if it thinks fit and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit,]

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force— Previous
conviction or
acquittal how
proved.

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered ;

together with, in each of such cases evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on the behalf of the prosecution, and record their depositions. Any such deposition may on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable. Record of
evidence in
absence of
accused.

(2) If it appears that an offence punishable with death or ⁵[imprisonment for life] has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of ⁶[India.] Record of
evidence
when
offender
unknown.

¹ Section 510 was renumbered as sub-section (1) of that section by Act 26 of 1955, s. 99 (a).

² Inserted, *ibid.*, s. 99 (a).

³ Inserted, *ibid.*, s. 99 (b).

⁴ Inserted, *ibid.*, s. 100.

⁵ Substituted, *ibid.*, s. 101, for "transportation".

⁶ The words "British India" have successively been subs. by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.